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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,555	09/15/2003	Masanori Tsukuda	001076A	9043
38834	7590	06/22/2004	EXAMINER	
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036			STERLING, AMY JO	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

10/661,555

### Applicant(s)

MASANORI TSUKUDA, HYOGO

### Examiner

Amy J. Sterling

### Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 is/are allowed.
- 6) ☒ Claim(s) 11, 12 and 14-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This is the **Final Office Action** for application number 10/661,555 Tilt-Swivel Stand, filed on 9/15/03. Claims 11-18 are pending. This **Final Office Action** is in response to applicant's reply dated 5/17/04. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 11, 12 and 14-18 are rejected under the judicially created doctrine of double patenting over claims 1 and 3-8 of U. S. Patent No. 6644616 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows:

Claim 11 corresponds to claim 1: Including a base member with a concave surface, a moveable member mounted to the base member with a convex surface, a single part connector which has a protrusion including a shank and an engaging portion disposed through an elongated guide groove disposed in the moveable member, the engaging portion being greater than the width of the elongated groove, wherein the engaging portion directly engages the movable member from above regardless of relative tilting and swiveling position between the base member and the moveable member when the stand is assembled.

Claim 12 corresponds to claim 8: Including wherein the shank of the protrusion includes a diametrically larger portion and a diametrically smaller portion, the diametrically larger portion being substantially equal in size to the width of the guide groove.

Claim 14 corresponds to claim 3: Including wherein the engaging portion comprises a pair of engaging pieces which are non-parallel to each other.

Claim 15 corresponds to claim 4: Including wherein each of the engaging piece comprises a generally rectangular plate.

Claim 16 corresponds to claim 5: Including a stopping means for restricting rotation of the movable member.

Claim 17 corresponds to claim 6: Including wherein the stopping means includes a profiled element and a stopping wall, the profiled element being arranged adjacent to the protrusion, the stopping wall being arranged adjacent to the guide groove.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

### ***Response to Arguments***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action, including the Double Patenting rejection.

Claim 11 is rejected under the judicially created obvious-type Double Patenting in view of claim 1 of 6644616 because though the claims differ by the addition of terms "from above" in relation to the positioning of the "engaging portion" relative to the "movable member", this positioning which was taught as above in 6644616 by the Figs. 8 and 9 and it could have been claimed as such in the earlier application which matured into patent 6644616.

### ***Allowable Subject Matter***

Claims 11 and 13 contain allowable subject matter contingent to the filing of a proper Terminal Disclaimer.

The reason is that the prior art does not show that the connector and the protrusion including a shank and an engaging portion, is formed as a single part with a concave base member, the engaging portion engaging a convex movable member from

above the movable member and which is flexible to deflect upon insertion through an elongated guide groove in the moveable member.

### ***Conclusion***

The following documents are considered pertinent to the applicant's disclosure.

5564669 to Wu shows a base support.

4989813 to Kim et al shows a tilt-swivel support

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be

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reached at 703-308-2156. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 703-308-3519 (informal amendments/communications). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.



AJS  
Amy J. Sterling  
6/8/04



ANITA KING  
PRIMARY EXAMINER